IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Single Bench

MISC. APPEAL NO. 25 /2006

APPELLANTS
NON-CLAIMANTS

1. Vijai Kumar Kevat alias Goddad aged 30 years son of Shri Kartik Ram Kevat resident of village Kosir Police Station Pamgarh District Janjgir-Champa (C.G.).....Driver

2. Budhram Kevat aged 35 years son of Shri Kartik Ram Kevat resident of village Kosir Police Station Pamgarh Distt. Janjgir-Champa (C.G.) .... Owner

P.R. No. 1991 dt. ...
Presented by Shri Sanjeev Behar
dated 12/7/06

VERSUS

RESPONDENTS
CLAIMANTS

1. Smt. Aannapurna Bai Chandrakar widow of late Shri Balmukund Chandrakar aged about 23 years.

2. Ku. Aditi Chandrakar aged about one year D/o late Shri Balmukund Chandrakar Minor through guardian mother Smt. Annapurna Chandrakar.

3. Shri Lakhanlal Chandrakar aged 50 years son of Phoolsingh Chandrakar

4. Smt. Droupadi Bai Chandrakar wife of Shri Lakhanlal Chandrakar aged 45 years.

All residents of village Damanu Post Damanu P.S.& Post Tahsil Balouda Bazar Distt. Raipur (C.G.)

5. Omprakash Kashyap aged

(8)

15 years son of Shri Goverdhan Kashyap minor through Guardian father Shri Goverdhan Kashyap son of late Shobharam Kashyap

6. Goverdhan Kashyap aged 55 years son of late Shobharam Kashyap

Nos. 5 and 6 residents of village Damaru P.S.& Tahsil Balouda-Bazar Distt. Raipur (C.G.)

7. The Oriental Insurance Company Branch Kachhari Chouk Medical College Raipur Distt. Raipur (C.G.)

MEMO OF APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLES ACT, 1988 Appeal valued Rs. 210000=00

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(29)

मामला क्रमांक M.A. (C) No. 25 **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	13/02/2007 Shri H.S. Patel, counsel for the appellants. Shri Anil Gulati, counsel for respondents' No. 1 to 6. Shri Atul Prasad, counsel for respondent No. 7. Heard on M.(C).P No. 1368/2006 for condonation of delay. Not opposed. For the reasons mentioned in the application, it is allowed and delay in filing this appeal is condoned. Also heard on admission. The only ground urged by the learned counsel for the appellants in this appeal is that the learned M.A.C.T. did not take into consideration the fact that the driver of the Motorcycle was aged 15 years and also contributed to the accident and therefore, the learned M.A.C.T. ought to have apportioned the compensation awarded by it between the appellants herein and Goverdhan Kashyap, owner of the Motorcycle. Learned counsel for the appellant did not dispute that accidental death of Balmukund Chandrakar on 26-04-2003 was established and the tractor trolley owned by the appellants was not insured on the date of accident. The arguments advanced by the learned counsel for the appellants cannot be countenanced because ground of contributory negligence on the part of the driver of the motor cycle was not taken by the appellants in their written statement. In view of the above circumstances, the impugned award imposing the liability to pay compensation on the appellants cannot be faulted with.	

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(30)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.(C) No. 25 **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Kvr	In the result, this appeal being devoid of merit is dismissed at the stage of admission. No order as to costs. **Sd/-** **Dilip Raosaheb Deshmukh** **Judge**	

P.T.O.

21.2.08 S/ 29/1/08 24.5.08